KARAM SINGH VERIAH

v.

KARPAL SINGH

HIGH COURT MALAYA, KUALA LUMPUR
HARUN HASHIM J
[APPLICATION NO. A32-45-86]
17 DECEMBER 1986

CIVIL PROCEDURE: *Contempt of Court - Application for leave to apply for an order of committal against respondent for contempt of Court - On ground of false representation, making uncalled for statements and attacks on learned Senior Federal Counsel, championing the Judiciary under false pretences and interferring with Court proceedings - Power of Court to deal with contempt of itself - Federal Constitution - Article 126 - Courts of Judicature Act 1964 - Section 13(2) - Whether costs should be awarded.*

This was an application for leave to apply for an order of committal against the respondent for contempt of Court. Both the applicant and the respondent are advocates and solicitors of the High Court in Malaya.

On 11 May 1986, in connection with the *habeas corpus* proceedings on behalf of 27 detainees arising out of the Memali incident instituted in the High Court at Alor Star, the Attorney-General filed a Notice of Motion to disqualify Mr. Justice Mustapha from further hearing the applications on the grounds of bias. At the hearing of the application to disqualify the Judge, the respondent informed the Court that he was holding a watching brief for the DAP. The respondent urged Mr. Justice Mustapha to grant leave for contempt proceedings to be commenced against the learned Senior Federal Counsel who appeared on behalf of the Attorney-General for making several statements in his affidavit concerning the learned Judge in support of the application to disqualify.

Mr. Justice Mustapha said he would give a decision later whether or not there was contempt of Court.

The applicant contended that the respondent's representation to the Court that he was holding a watching brief for the DAP was false as the DAP was not a party to the *habeas corpus* proceedings. Further he had made uncalled for statements and attacks on the learned Senior Federal Counsel, championing the Judiciary under false pretences and generally had interfered with Court proceedings which was not his business. These acts of the respondent, according to the applicant, amounted to a contempt of Court.

Held:

[1] The alleged contempt of Court, if any, occurred before Mr. Justice Mustapha in the High Court at Alor Star. That Court had full powers to deal with contempt of itself - Article 126 of the Federal Constitution; section 13(2) of the Courts of Judicature Act 1964. The application for leave should have been made there.

[2] As for the alleged remarks against the learned Senior Federal Counsel, it is for the Attorney-General to take whatever steps he deems appropriate.

[3] In the event, the application was dismissed with costs as the respondent was served.

Legislation referred to:
Courts of Judicature Act 1964, s. 13(2)
Federal Constitution art. 126

For the applicant - Karam Singh Veriah - in person; M/s. Karam Singh Veriah & Co.
for the respondent - Karpal Singh - in person; M/s. Karpal Singh & Co.

JUDGMENT

Harun J:

This was an application for leave to apply for an order of committal against the respondent for contempt of Court. Both the applicant and the respondent are advocates & solicitors of the High Court in Malaya.

Habeas corpus proceedings on behalf of 27 detainee arising out of the Memali incident had been instituted in the High Court at Alor Star. These applications were heard before Mr. Justice Mustapha on various dates in December 1985 to March 1986 and was adjourned for continued hearing on 7 June 1986.

On 11 May 1986, the Attorney-General filed a Notice of Motion to disqualify Mr. Justice Mustapha from further hearing the applications on the grounds of bias. At the hearing of the application to disqualify the Judge, the respondent informed the Court that he was holding a watching brief for the Democratic Action Party (DAP). During the course of that hearing, the respondent urged Mr. Justice Mustapha to grant leave for contempt proceedings to be commenced against the learned Senior Federal Counsel who appeared on behalf of the Attorney-General, arising out of the several statements he made in his affidavit concerning the learned Judge in support of the application to disqualify. Mr. Justice Mustapha said he would give a decision later whether or not there was contempt of Court.

The applicant contends that the respondent's representation to the Court that he was holding a watching brief for the DAP is false as the DAP is not a party to the *habeas corpus* proceedings. Further he had made uncalled for statements and attacks on the learned Senior Federal Counsel, championing the Judiciary under false pretences and generally had interferred with Court proceedings which was not his business. These acts of the respondent, according to the applicant, amount to a contempt of Court.

I found that the alleged contempt of Court, if any, occurred before Mr. Justice Mustapha in the High Court at Alor Star. That Court has full powers to deal with contempt of itself - Article 126 of the Federal Constitution; section 13(2) of the Courts of Judicature Act 1964. I accordingly held that the application for leave should be made there. As far as the alleged remarks against the learned Senior Federal Counsel are concerned, it is for the Attorney-General to take whatever steps he deems appropriate. In the event, I dismissed the application with costs as the respondent was served.

Also found at [1987] 1 CLJ 63